

AN ACT
MODIFYING SEX OFFENDER REGISTRY PROVISIONS, AND PROVIDING
PENALTIES AND INCLUDING EFFECTIVE DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 692A.101, subsection 2, Code Supplement 2009, is amended to read as follows:

2. a. *"Aggravated offense against a minor"* means a conviction for any of the following offenses, if such offense was committed against a minor, or otherwise involves a minor:

~~a.~~ (1) Sexual abuse in the first degree in violation of section 709.2.

~~b.~~ (2) Sexual abuse in the second degree in violation of section 709.3.

~~c.~~ (3) Sexual abuse in the third degree in violation of section 709.4, except for a violation of section 709.4, subsection 2, paragraph "c", subparagraph (4).

b. Any offense specified in the laws of another jurisdiction or prosecuted in federal, military, or foreign court, that is comparable to an offense listed in paragraph "a" shall be considered an aggravated offense against a minor if such an offense was committed against a minor or otherwise involves a minor.

Sec. 2. Section 692A.101, subsection 27, Code Supplement 2009, is amended to read as follows:

27. *"Sex offense"* means an indictable offense for which a conviction has been entered that ~~has an element involving a sexual act, sexual contact, or sexual conduct, and which is~~ enumerated in section 692A.102, and means any comparable offense for which a conviction has been entered under prior

law, or any comparable offense for which a conviction has been entered in a federal, military, or foreign court, or another jurisdiction.

Sec. 3. Section 692A.101, Code Supplement 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 28A. "*Sexually motivated*" means the same as defined in section 229A.2.

Sec. 4. Section 692A.102, subsection 1, paragraph a, subparagraphs (6) and (7), Code Supplement 2009, are amended to read as follows:

(6) (a) Harassment in violation of section 708.7, subsection 1, 2, or 3, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

~~(7)~~ (b) Stalking in violation of section 708.11, except a violation of subsection 3, paragraph "b", subparagraph (3), if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(c) Any other indictable offense in violation of chapter 708 if the offense is committed against a minor and if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

Sec. 5. Section 692A.102, subsection 1, paragraph a, Code Supplement 2009, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (08) Pimping in violation of section 725.2 if the offense was committed against a minor or otherwise involves a minor and if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

NEW SUBPARAGRAPH. (008) Pandering in violation of section 725.3, subsection 2, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

NEW SUBPARAGRAPH. (0008) Any indictable offense in violation of chapter 726 if the offense is committed against a minor or otherwise involves a minor and if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

Sec. 6. Section 692A.102, subsection 1, paragraph b, Code Supplement 2009, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (015) Pandering in violation of section 725.3.

Sec. 7. Section 692A.102, subsection 1, paragraph c, Code Supplement 2009, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (06) Penetration of the genitalia or anus with an object in violation of section 708.2, subsection 5.

Sec. 8. Section 692A.106, Code Supplement 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. If a sex offender is placed on probation, parole, or work release and the probation, parole, or work release is revoked, the period of registration shall commence anew upon release from custody.

Sec. 9. Section 692A.111, Code Supplement 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Any violation of this chapter prior to July 1, 2009, shall be considered a previous offense for purposes of enhancing any penalty or period of registration under this chapter.

Sec. 10. Section 692A.113, subsection 1, unnumbered paragraph 1, Code Supplement 2009, is amended to read as follows:

A sex offender who has been convicted of a sex offense against a minor or a person required to register as a sex offender in another jurisdiction for an offense involving a minor shall not do any of the following:

Sec. 11. Section 692A.123, Code Supplement 2009, is amended to read as follows:

692A.123 Immunity for good faith conduct.

Criminal or juvenile justice agencies, ~~and employees of criminal or juvenile justice agencies~~ and state agencies, schools as defined in section 692A.114, public libraries, and child care facilities, and their employees shall be immune from

liability for acts or omissions arising from a good faith effort to comply with this chapter.

Sec. 12. Section 692A.125, subsection 2, paragraph c, Code Supplement 2009, is amended to read as follows:

c. Any sex offender who is serving a special sentence pursuant to section 903B.1 or 903B.2 prior to July 1, 2009, or any other person who is sentenced for a criminal offense prior to July 1, 2009, that requires serving a special sentence.

Sec. 13. Section 692A.125, Code Supplement 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. For an offense requiring registration due to sexual motivation, the registration requirements of section 692A.126 shall apply to a person convicted of an offense if the department makes the determination that the offense was sexually motivated as provided in section 692A.126, subsection 2.

Sec. 14. Section 692A.126, Code Supplement 2009, is amended to read as follows:

692A.126 Sexually motivated offense — determination.

1. If a judge or jury makes a determination, beyond a reasonable doubt, that any of the following offenses for which a conviction has been entered on or after July 1, 2009, are sexually motivated, the person shall be required to register as provided in this chapter:

- a. Murder in the first degree in violation of section 707.2.
- b. Murder in the second degree in violation of section 707.3.
- c. Voluntary manslaughter in violation of section 707.4.
- d. Involuntary manslaughter in violation of section 707.5.
- e. Attempt to commit murder in violation of section 707.11.
- f. Harassment in violation of section 708.7, subsection 1, 2, or 3.
- g. Stalking in violation of section 708.11, subsection 3, paragraph "b", subparagraph (3).
- h. Any other indictable offense in violation of chapter 708 if the offense was committed against a minor or otherwise

involves a minor.

~~h.~~ i. Kidnapping in the first degree in violation of section 710.2.

~~i.~~ j. Kidnapping in the second degree in violation of section 710.3.

~~j.~~ k. Kidnapping in the third degree in violation of section 710.4.

~~k.~~ l. Child stealing in violation of section 710.5.

~~l.~~ m. Purchase or sale or attempted purchase or sale of an individual in violation of section 710.11.

~~m.~~ n. Burglary in the first degree in violation of section 713.3, subsection 1, paragraph "a", "b", or "c".

~~n.~~ o. Attempted burglary in the first degree in violation of section 713.4.

~~o.~~ p. Burglary in the second degree in violation of section 713.5.

~~p.~~ q. Attempted burglary in the second degree in violation of section 713.6.

~~q.~~ r. Burglary in the third degree in violation of section 713.6A.

~~r.~~ s. Attempted burglary in the third degree in violation of section 713.6B.

t. Pimping in violation of section 725.2 if the offense was committed against a minor or otherwise involves a minor.

u. Pandering in violation of section 725.3, subsection 2.

v. Any indictable offense in violation of chapter 726 if the offense was committed against a minor or otherwise involves a minor.

2. a. ~~If a~~ The following persons shall be required to register as provided in this chapter if the department makes a determination that the offense was sexually motivated:

(1) A person convicted of an offense in this state specified under subsection 1 prior to July 1, 2009.

(2) A person ~~is~~ convicted of an offense in another jurisdiction, or convicted of an offense that was prosecuted in a federal, military, or foreign court, prior to, on, or

~~after July 1, 2009, that is comparable to an offense specified in subsection 1, the person shall be required to register as provided in this chapter if the department makes a determination that the offense was sexually motivated.~~

3. (3) ~~If a~~ A juvenile is convicted of an offense in another jurisdiction, or convicted of an offense as a juvenile in a similar juvenile court proceeding in a federal, military, or foreign court, prior to, on, or after July 1, 2009, that is comparable to an offense specified in subsection 1, ~~the person shall be required to register as provided in this chapter if the department makes a determination that the offense was sexually motivated.~~

b. A determination made pursuant to this subsection shall be issued in writing and shall include a summary of the information and evidence considered in making the determination that the offense was sexually motivated.

c. The determination made by the department shall be subject to judicial review in accordance with chapter 17A.

Sec. 15. NEW SECTION. 708.14 Sexual motivation.

A person convicted of any indictable offense under this chapter shall be required to register as a sex offender pursuant to the provisions of chapter 692A, if the offense was committed against a minor and the fact finder makes a determination that the offense was sexually motivated pursuant to section 692A.126.

Sec. 16. Section 713.3, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of chapter 692A for violations of subsection 1, paragraphs "a", "b", or "c", the fact finder shall make a determination as provided in section 692A.126.

Sec. 17. Section 713.4, Code 2009, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. For purposes of determining

whether the person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

Sec. 18. Section 713.5, Code 2009, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

Sec. 19. Section 713.6, Code 2009, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

Sec. 20. Section 713.6A, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

Sec. 21. Section 713.6B, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

Sec. 22. NEW SECTION. **726.10 Sexual motivation.**

A person convicted of any indictable offense under this subchapter shall be required to register as a sex offender pursuant to the provisions of chapter 692A, if the offense was committed against a minor and the fact finder makes a determination that the offense was sexually motivated pursuant to section 692A.126.

Sec. 23. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.

JOHN P. KIBBIE
President of the Senate

PATRICK J. MURPHY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2305, Eighty-third General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2010

CHESTER J. CULVER
Governor